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ORGANIZATION OF THE WORK OF THE SESSION

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD

Written statement*/ submitted by Franciscans International,
a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 December 1999]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

For more than 10 years the Commission for Human Rights of the United Nations has been concerned about the situation of human rights in Colombia, showing constant concern, where they have judged that this country presents a picture of "grave, persistent and systematic violations of human rights."

Different organs of the UN system have reported on a scope of the problems in Colombia: the Working Group on Enforced Disappearances; the Special Reporter of Extra-Judicial, Summary and Arbitrary Executions; a Special Reporter on Torture; the Special Representative of the Secretary General on the Question of Internal Displacement, as well as the Working Group on Arbitrary Detentions. Recently, the UN Commission on Human Rights has also documented the situation in its most recent sessions in 1998 and 1999.

As a result, the Colombian government has received a series of many recommendations, which include the need to adopt urgent measures to guarantee the functioning of a system of justice that respects the rights and guarantees of process; to dismantle paramilitary groups; to address impunity; and to develop a climate of respect for human rights. In spite of the fact that eleven years have passed since these recommendations were first formulated, the same have not been implemented, leading to a situation that aggravates and deepens the crisis of human rights.

The political violence has continued to deteriorate. The State has been responsible for 78% of those acts (73% of them correspond to actions carried out by paramilitary groups that have acted with the support, tolerance, permission or coordination of agents of the State; with the remaining 5% identified as direct actions of the armed forces.) The remaining 22% of these actions are committed by the guerilla.

During 1999 the situation of human rights and humanitarian rights continued to deteriorate. The degradation of the armed conflict has become very evident. The basic distinction between combatants and the civil population has been left aside by the armed actors, who with the purpose of gaining or recovering lost territories, have regarded the residents of these zones to be members or helpers of the opposition. There is use of means and methods of war with indiscriminate capability, such as bombings and machine-gunning from the air on the part of the Armed forces (Santo Domingo Arauca, Dec. 131998. 18 persons killed including 7 minors); methods of guerilla assaults on the populations (Nariño, Antioquia, July 30, 1999. 8 civilians killed); and massive and indiscriminate retentions by the insurgent groups.

THE FREE AND OPEN ACTION OF THE PARAMILITARY GROUPS

The organs of the United Nations have repeatedly asked for the adoption of the means to eradicate the paramilitary groups, as well as the separation of the work of the personnel of the armed forces who are involved with the formation and support of these criminal structures. In spite of the intense calling of attention in this sense, the adoption of effective measures to combat the paramilitary groups and eliminate all types of relationships with the members of the armed forces has been nonexistent or null and void. On the contrary, the strict relationships of coordination, collaboration, tolerance and acquiescence of the authorities with these groups has increased, becoming more open and more public.

One situation that exemplifies this is what happened on August 21, 1999, at 8:45 p.m., where members of a paramilitary group, numbering approximately 150 men, freely entered the district of La Gabarra (Tibu), causing the death of 29 persons. In this event it is a particular concern to observe how "the check point of the National Army that usually occurs at the entrance to the town - on the road to Tibú - was taken away at 8:00 p.m. on Saturday, August 21, and the troops that patrolled the streets of the town had retired to the military base that same day at 8:10 p.m. which facilitated the committing of this crime.

The present Colombian government has announced the formation of specialized groups within the armed forces to neutralize the action of the paramilitary groups, as well as to isolate members of the armed forces who maintain connections with the paramilitaries. Although several months have passed since these public announcements, the existence, functioning, and operation of these special groups, remains unknown, and even less is known about the isolation of certain members of the military administration or police personnel.

METHODS AGAINST IMPUNITY

In contradiction with established policy in different international instruments of human rights, as well as decisions of the Constitutional Court, grave violations of human rights had continued to be the object of information on the part of the Penal Military Justice. In the environment of Ordinary Justice there are no significant advances to be observed, which has permitted impunity to rule in approximately 100% of the cases. The methods and techniques of investigation continue to revolve around the testimonies of the victims or their families, who, in many opportunities are subject to improper/illegal pressure, and who pretend to obligate them to testify, without clear guarantees for their life and their personal integrity.

In the month of June, 1999, the Congress of the Republic approved the new Penal Military Code, a measure that was recommended in the past by various organs of the universal system of human rights. Nevertheless, the form in which it was approved, and its content, did not respect nor consult the different recommendations and instruments of the international law of human rights. Thus, it makes it possible that grave infractions of human rights can become the object of information of the Penal Military Justice, and permit that the functions of investigation and judgment can be assumed by personnel active in the armed forces, among other aspects.

Additionally, the same article stated that this Code would begin to be enforced one year after its promulgation, on the condition that a statutory law defining the structure of the Administration of the Penal Military Justice would also be in force.With this condition, the approved Code was converted into an instrument that had no possibility of a real application, given that up to this moment, there does not even exist a proposal for this statutory law.

Also, during 1999 a law addressing genocide, forced disappearance, forced displacement and torture was approved that does not take into account international law of human rights, which, in the case of forced displacement leaves a wide margin of interpretation that permits the armed forces to give validity and legality to forced displacements.

THE TREATMENT OF FORCED DISPLACEMENT

During the first half of 1999 there was in increase of 124,000 persons, leading to an approximate total of 1,800,000 persons, who were victims of forced displacement. On 10 November 1999 Document 3057 of CONPES was released describing governmental policy of attention to the forcibly displaced. It is of particular concern to observe how the problem of displacement is minimized in this document, when on one hand, it identifies that the affected population has increased by 400,000 persons with 139 towns being affected, that is, approximately 10% of the national territory, while on the other hand, it states that it is a public and evident fact that the number of expelling departments has increased.

Additionally, the attention of the government has been concentrated on providing emergency assistance that is characterized by a wide dispersion in responsibilities at higher levels of authority, the absence of a process of organization and practically no participation of the displaced population. The tendency is not to define the mechanisms, criteria, and policies where the goods and services administered according to the needs, or the different ethnic and cultural realities. The criteria that have been used in the government's provisional

attention to the emergency have been used as mechanisms to force premature returns that are contrary to the principles of a voluntary and secure return established in the UN Guiding Principles on Internal Displacement.

The gravity of the situation is gathered by the Office of UNHCHR: "In terms of basic necessities, there have been reported cases of a moderate state of malnutrition, and in some cases, of severe malnutrition, among the displaced population, particularly within vulnerable groups. More than this, the lack of housing is generalized. 80% of the displaced population does not have access to basic medical services, and 95% of the displaced women do not receive any medical attention during pregnancy. One recent study about rights of occupancy on the earth for displaced persons concluded that before the displacement, 43% of those interviewed, had rights to their land, while after displacement, 95% had abandoned their lands and had no idea about what was happening to their lands." (Operational Plan of UNHCHR for the Forced Displacement in Colombia, 1999. Page 5.)

At the same time the right of a guarantee of a return in conditions of safety has been systematically unrecognized. For example, in relation to the inhabitants of the South of Bolivar and the Valley of Cimitarra, those who, in the month of August, 1998, after an agreement signed by the President of the Republic, returned to their places of origin, and from what has happened up to this date, more than 260 persons have been the victims of attacks against their lives and their personal integrity. Add to this, on November 28th, 1999, one of the voices of the exodus, Edgar Quiroga, disappearaed in the company of Gildardo Guentes in the town of San Pablo (Bolivar), in a joint action of members of the 5th Brigade of the Army and paramilitary groups.

SITUATION OF THE DEFENDERS OF HUMAN RIGHTS

Attacks against social activists, union leaders and defenders of human rights continue at alarming levels. During 1999 six defenders of human rights were kidnapped by paramilitary groups that continue to attack with the overt support of members of the armed forces. At the same time, various defenders have suffered attempts in which they have lost their lives. These include Everardo Puerta and Julio Gonzalez, members of the Committee of Solidarity with Political Prisioners, as well as Gustavo Marulanda, a member of the Committee of Human Rights of the University of Antioquia.

Various human rights defenders and union leaders are deprived of liberty because of the regional justice system where there is an absence of guarantees, independence and impartiality of the investigators and judges that is worsened by the amount of intrusion and direction that is maintained by the actions of the judicial members of the armed forces.

Although there exists a presidential directive which recognizes the legality, the necessity, and the legitimacy of the work developed by NGO's, high officials of the armed forces continue their public statements that insist that these agencies are infiltrated by the subversives, or work at the service of the subversion.

To analyze the repeated lack of implementation of the recommendations of the organs of the United Nations, as well as the gravity of the situation of human rights in Colombia, it is necessary to conclude that it is now imperative to adopt immediate and urgent measures that will limit the spiral of grave violations to human rights.

It is necessary that the Office of the High Commissioner present more than an analysis report of the situation and that it demonstrate in a ways its deep concerns for the crises of human rights in Colombia and for the repaeted lack of implementation of its recommendations by the Colombian government.
We recommend that the UN Office of the High Commissioner for Human Rights in Colombia be strengthened with an increase of personnel and financial resources.

We also recommend the appointment of a SPECIAL REPORTER for Colombia who will supervise the situation of human rights and present periodic reports to the Commission of Human Rights.

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